

## 21 C.J.S. Courts § 310

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### Courts

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### IX. Court Commissioners

#### A. Nature of Office, Appointment, Qualification, and Tenure

##### § 310. Nature of office of court commissioner

[Topic Summary](#) | [References](#) | [Correlation Table](#)

#### West's Key Number Digest

West's Key Number Digest, [Court Commissioners](#) 3

**A court commissioner is a subordinate judicial or quasi-judicial officer who generally acts as an instrumentality to inform and assist the court.**

A court commissioner is a subordinate<sup>1</sup> judicial<sup>2</sup> or quasi-judicial<sup>3</sup> officer of a court of record<sup>4</sup> who generally acts as an instrumentality to inform and assist the court.<sup>5</sup> Court commissioners perform many important functions in assistance to courts, such as conducting fact-finding hearings, holding pretrial conferences, and making recommendations to judges.<sup>6</sup>

Court commissioners are obligated to conduct themselves as judicial<sup>7</sup> or quasi-judicial<sup>8</sup> officers and to follow established procedural and substantive law.<sup>9</sup> Standards of judicial conduct and canons of ethics are as applicable to court commissioners as they are to any other judicial officer.<sup>10</sup>

A court commissioner is not a qualified judge de facto or de jure.<sup>11</sup> A court commissioner is not a court<sup>12</sup> but is an adjunct and officer of the court.<sup>13</sup>

A court commissioner, as such, is not a court referee.<sup>14</sup> By contrast, where the legislature has specifically granted to court commissioners powers and duties consonant with those of a magistrate, the concepts of magistrates and commissioners are virtually synonymous in practicality, especially with respect to parties in a judicial proceeding.<sup>15</sup>

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## Footnotes

1 Wyo.—[BAC v. BLM, 2001 WY 83, 30 P.3d 573 \(Wyo. 2001\)](#).

2 U.S.—[Franceschi v. Schwartz, 57 F.3d 828 \(9th Cir. 1995\)](#).

3 Utah—[Liska v. Liska, 902 P.2d 644 \(Utah Ct. App. 1995\)](#).

4 Utah—[Liska v. Liska, 902 P.2d 644 \(Utah Ct. App. 1995\)](#).

5 Ind.—[Rivera v. State, 601 N.E.2d 445 \(Ind. Ct. App. 1992\)](#).

6 Utah—[State v. Thomas, 961 P.2d 299 \(Utah 1998\)](#).

7 Mo.—[In re K.L.W., 131 S.W.3d 400 \(Mo. Ct. App. W.D. 2004\)](#).

8 Utah—[Liska v. Liska, 902 P.2d 644 \(Utah Ct. App. 1995\)](#).

9 Mo.—[In re K.L.W., 131 S.W.3d 400 \(Mo. Ct. App. W.D. 2004\)](#).

10 Mo.—[In re K.L.W., 131 S.W.3d 400 \(Mo. Ct. App. W.D. 2004\)](#).

11 Wyo.—[BAC v. BLM, 2001 WY 83, 30 P.3d 573 \(Wyo. 2001\)](#).

12 Ind.—[Rivera v. State, 601 N.E.2d 445 \(Ind. Ct. App. 1992\)](#).

13 Wyo.—[Weber v. Johnston Fuel Liners, Inc., 519 P.2d 972 \(Wyo. 1974\)](#).

14 Cal.—[In re Ian J., 22 Cal. App. 4th 833, 27 Cal. Rptr. 2d 728 \(5th Dist. 1994\)](#), as modified, (Mar. 15, 1994).

15 Ind.—[Capehart v. Capehart, 771 N.E.2d 657 \(Ind. Ct. App. 2002\)](#).

As to powers of court commissioners, generally, see § 315.